

## **APPENDIX B**

### **Project Sponsors and Addresses**

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|-----|--|---|
| 1.  | <b>Advantage Communications Group</b>            | <b>100 Swan Way, Suite 200<br/>Oakland, CA 94621</b>                |
| 2.  | <b>AT&amp;T Communications of California</b>     | <b>795 Folsom Street<br/>San Francisco, CA 94107</b>                |
| 3.  | <b>Bakersfield Cellular Telephone Co.</b>        | <b>4200 Truxton Avenue<br/>Bakersfield, CA 90035</b>                |
| 4.  | <b>Brooks Fiber Communication of Bakersfield</b> | <b>525 Almanor Avenue<br/>Sunnyvale, CA 94086</b>                   |
| 5.  | <b>Brooks Fiber Communication of Fresno</b>      | <b>525 Almanor Avenue<br/>Sunnyvale, CA 94086</b>                   |
| 6.  | <b>Brooks Fiber Communication of Sacramento</b>  | <b>10316 Placer Lane<br/>Sacramento, CA 95827</b>                   |
| 7.  | <b>Brooks Fiber Communication of San Jose</b>    | <b>525 Almanor Avenue<br/>Sunnyvale, CA 94086</b>                   |
| 8.  | <b>Brooks Fiber Communication of Stockton</b>    | <b>525 Almanor Avenue<br/>Sunnyvale, CA 94086</b>                   |
| 9.  | <b>Cable Plus Company<br/>dba Telephone Plus</b> | <b>11400 S.E. Sixth Street, Suite 120<br/>Bellevue, WA 98004</b>    |
| 10. | <b>Caribbean Telephone and Telegraph</b>         | <b>1249 Washington Blvd., Suite 2015<br/>Detroit, MI 48226</b>      |
| 11. | <b>Cellular 2000</b>                             | <b>3250 G Street<br/>Merced, CA 95340</b>                           |
| 12. | <b>Century Telecommunications</b>                | <b>50 Locust Avenue<br/>New Canaan, Connecticut 06840</b>           |
| 13. | <b>Communication TeleSystems International</b>   | <b>4350 La Jolla Village Dr., Suite 100<br/>San Diego, CA 92122</b> |

## **APPENDIX B**

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| 14. | <b>Continental Telecommunications of California</b> | 550 N. Continental Blvd., Suite 250<br>El Segundo, CA 90245                   |
| 15. | <b>Electric Lightwave</b>                           | 8100 N.E. Parkway Drive, Suite 150<br>Vancouver, CA 98662                     |
| 16. | <b>Fiber Data Systems</b>                           | 111 West Washington Boulevard<br>Suite G<br>Montebello, CA 90640              |
| 17. | <b>GST Lightwave</b>                                | 580 Executive Center<br>11501 Dublin Boulevard, Suite 200<br>Dublin, CA 94568 |
| 18. | <b>GST Pacific Lightwave</b>                        | 3403 Tenth Street, Suite 630<br>Riverside, CA 92501                           |
| 19. | <b>GTE California</b>                               | One GTE Place<br>Thousand Oaks, CA 91362-3811                                 |
| 20. | <b>GTE Intelligent Network Services</b>             | 5525 MacArthur Blvd., Suite 445<br>Irving, TX 75038                           |
| 21. | <b>ICG Access Services</b>                          | 1050 17th. Street, Suite 1610<br>Denver, CO 80265                             |
| 22. | <b>Info-Tech Communications</b>                     | 1515 Lincoln Way<br>Auburn, CA 95603  |
| 23. | <b>Linkatel Pacific</b>                             | 1924 Deere Avenue, Suite 110<br>Santa Ana, CA 92706                           |
| 24. | <b>Mammoth Cellular</b>                             | 330 120th Avenue N.E., #200<br>Bellevue, WA 98005                             |
| 25. | <b>MCI Metro Access Transmission Services</b>       | 2250 Lakeside Boulevard<br>Richardson, TX 75082                               |
| 26. | <b>MFS Intelnet of California</b>                   | 185 Berry Street, Building One<br>Suite 5100<br>San Francisco, CA 94107       |

## APPENDIX B

27.	NewTelco, dba Sprint Telecommunications Venture	9221 Ward Parkway Kansas City, Missouri	64114
28.	NextLink of California	2433 Carillon Point Kirkland, WA	98033
29.	Pacific Bell	140 New Montgomery Street San Francisco, CA	94105
30.	Pac-West Telecomm	4202 Coronado Avenue Stockton, CA	95204
31.	SLO Cellular	733 Marsh Street San Luis Obispo, CA	93401
32.	TCG Los Angeles	700 Flower Street Los Angeles, CA	90017
33.	TCG San Diego	1370 India Street San Diego, CA	92101
34.	TCG San Francisco	One Bush Street San Francisco, CA	94104
35.	The Associated Group dba Associated Communications of Los Angeles	200 Gateway Towers Pittsburgh, PA	15222
36.	Unitel Communications	3949 Research Park Court, Suite 100 Santa Cruz, CA	95073
37.	U.S. Long Distance	9311 San Pedro, Suite 300 San Antonio, TX	78216
38.	Venture Technologies Group dba Allegro Communications	6611 Santa Monica Blvd. Los Angeles, CA	90038-1311
39.	Viacom Communications	5924 Stoneridge Drive Pleasanton, CA	94588
40.	Winstar Wireless of California	7779 Leesburg Pl., Suite 401 South Tyson's Corner, VA	22043

## **APPENDIX C**

### **Response to Comments:**

Comment letters were received from several local agencies on the draft Negative Declaration and Initial Study. The following are responses to these comments:

1. **Antero Rivasplata**, Chief, State Clearinghouse, dated 11/17/95.

No comments from state agencies sent through the Clearinghouse.

2. **Kellie Morgantini**, Community Services Director, City of Greenfield, dated 10/20/95.

No comments on the projects.

3. **Richard Hoffstadt**, Development/Subdivision Engineer, City of Newport Beach, dated 10/25/95.

**Comment #1:** The Negative Declaration does not address the potential impacts of the projects on the City's streets. The installation of additional lines, manholes and service cabinets in the right-of-way will overwhelm the existing right-of-way, and interfere with the maintenance of other utility services. Recommends that a maximum of four (4) petitioners be permitted in any one street right-of-way. All other petitioners will be forced to lease facilities from those already in the right-of-way.

**Response:** The impact of the projects on streets is noted and the petitioners would be required to work in cooperation with each other and the local agencies so that the number of disturbances to the right-of-way are minimized as discussed in Mitigation Measures B and F. One suggestion is for the local agencies to establish one or more construction time periods or "windows" for the petitioners to install their facilities in the public right-of-way. The windows could be determined by street construction projects already planned. Applications received after a predetermined date could have to wait for the next construction "window" established by the local agency. We cannot accept the recommendation to limit the petitioners to four (4) per street because the Commission has already determined in D.95-07-054 that competition for local telephone service is open to all petitioners who filed their intent to provide that service.

**Comment #2:** The Negative Declaration does not address the reduction of service life of streets as a result of trenching and patching. Studies indicate that pavement life is reduced from 20% to 30% once it has been trenched. Recommends that a variety of specific construction standards for street patching and the assessment of a Street Deterioration Fee

to offset the reduction of street life.

**Response:** Question XI (d) of the Initial Study has been amended to discuss impacts to maintenance of public roads. Mitigation Measure F has been amended to specifically state that the petitioners are required to abide by all local standards by obtaining various ministerial permits such as encroachment or building permits. Specific construction standards as recommended in the comment can be incorporated into the local permit process. The same can be said for the Street Deterioration Fee. However, ministerial permits and local standards cannot be used by a local agency as a discretionary tool to prevent or limit a state-wide interest in competition for local telephone service.

**Comment #3:** The Negative Declaration does not address the visual impacts of the above service grade cabinets needed to provide service. Besides visual impacts, the City is concerned about potential liability for the cabinets in sidewalks, and that the petitioners may be required to obtain easements from property owners in areas where space for the cabinets are not available. Recommends that the cabinets be spaced at least 500 feet apart.

**Response:** The proposed facilities as described in 4. Schuller's Comment below are part of a utility's intended project to upgrade its existing infrastructure and is not related to the proposed projects as discussed in the Negative Declaration (projects to extend facilities to new territories for service). However it is anticipated that some petitioners may require smaller, less obtrusive service cabinets to provide competing service in new territories. In many cases, the boxes can be placed within existing buildings or underground. In the event that the boxes are placed above ground, the petitioners will be required to consult with local agencies regarding aesthetic concerns about their construction. Finding #9 and Mitigation Measure I will be modified to clarify this point. The Negative Declaration will not prescribe a specific method for the petitioners and the local agencies to follow in addressing this issue since each locality has the means to determine the approach most appropriate for it.

**4. Ray Schuller, Building Department Director, City of Newport Beach, dated 11/20/95**

**Comment:** The service cabinets proposed by the petitioners carry equipment that have the potential for explosion if impacted by a vehicle. The cabinets contain 110 volts, backup batteries and gas generators.

**Response:** The above grade service cabinets as described in the comment are part of a petitioner's construction project within its existing service territory. These service cabinets are designed for providing broadband capability to existing telecommunication infrastructure, and are not directly related to the proposed projects addressed in the Negative Declaration. Pursuant to Public Utilities Code Section 1001, the Commission does not review modifications made by utilities to their existing facilities in territories they

already serve. The other petitioners either do not plan to use the type of service cabinets as described in the comment, or will install them in existing buildings or underground. This clarification has been added to the Project Description in the Negative Declaration.

5. Keri Parrish, Assistant Planner, City of Wasco, dated 11/1/95

**Comment #1:** The Negative Declaration does not address the potential increase of exposure of people to health hazards from the construction of new poles and overhead lines. In particular, will there be an increase of radiation or electric-magnetic fields (EMFs) from the poles or overhead lines?

**Response:** To date, we are not aware of any evidence that suggests that the EMF levels, if any, from fiber optic cables or overhead communication lines present a health hazard to the public. The Commission established an EMF research and education program in 1993 (D.93-11-013) that is currently being managed by the California Department of Health Services (DHS). Commission staff consult with the DHS regularly on the most up-to-date information concerning EMF.

The Commission's responsibility for ensuring safety of utility overhead poles or lines is carried out by the Commission's Safety and Enforcement Division (SED). Under the regulations established under the Commission's General Order 95, the SED makes periodic inspections of overhead lines to ensure that they meet existing Commission standards for safety. Finding #7 and Mitigation Measure G have been modified to state that the SED will incorporate inspections of any new lines into its procedures.

**Comment #2:** Will the Commission permit new facilities to be built in residential neighborhoods, near schools, parks, etc.?

**Response:** The petitioners may place new facilities in a variety of areas as discussed in Sections E and F of the Initial Study. Mitigation Measure A in the Negative Declaration will be triggered if a petitioner proposes to construct a project which goes beyond the existing utility right-of-way. This measure will require a complete environmental review before it is approved.

6. Todd Galarneau, Associate Planner, City of Santee, dated 11/2/95

**Comment #1:** The Negative Declaration does not specifically require the petitioners to comply with local agency requirements or ordinances. Recommends that the document should specifically state that the petitioners comply with local standards and that they address all substantive concerns prior to commencement.

**Response:** For the purpose of clarity, the Negative Declaration has been revised to state that local standards must be adhered to and all applicable local ministerial permits must be

obtained. However, as stated in response to earlier comments, the ministerial permit process cannot be used by local agencies to interfere with or prevent a state-wide interest in local telephone competition.

**Comment #2:** The Negative Declaration does not cover the 26 resale petitioners by declaring them exempt from CEQA review. These petitioners are not necessarily exempt from CEQA if the facilities-based carrier is required to modify or expand its facilities to provide service for the resale petitioner.

**Response:** We do not agree with the comment. The resale petitioners are exempt from CEQA because of the fact that they have no facilities to construct. If a facilities-based carrier chooses to modify or expand its facilities as described in the comment, then that carrier will be subject to the appropriate review and permit process as outlined in the Negative Declaration.

**Comment #3:** The Negative Declaration is missing the words, "control plans shall be developed and implemented for areas identified as particularly" at the bottom of page 3.

**Response:** The wording as described has been inserted.

**Comment #4:** The Negative Declaration's Finding #6, should be modified so that the language specifically requires the petitioners to work with the local agencies in developing traffic control plans, obtaining all required permits, and complying with all applicable local ordinances.

**Response:** Mitigation Measure F has been modified to specify that the petitioners must comply with all local standards and ministerial permits regarding traffic and circulation concerns. Finding #6 has also been modified to reflect that requirement.

**Comment #5:** Mitigation Measure H should be modified so that the petitioners are required to comply with all local noise ordinances in addition to conducting public outreach.

**Response:** Mitigation Measure H has been modified to require petitioners to comply with all applicable local noise standards.

**7. Mo Khatami, Senior Planner, City of Atwater, dated 11/7/95**

**Comment:** The City of Atwater will require each petitioner to go through the Conditional Use Permit process for any exterior modifications to existing facilities or new facilities.

**Response:** In locating its projects, the petitioners will need to cooperate with, and obtain

the input of, local authorities regarding land use matters and obtain any ministerial local permits or approvals required for construction and operation of the projects to ensure safety and compliance with local standards. The language of the Mitigation Measures has been revised to clarify this. The fact that petitioners must obtain local ministerial permits does not indicate that the Commission has relinquished its authority. General land use and zoning authority does not permit local agencies to thwart any legitimate construction project necessary to provide utility service. The Mitigation Monitoring Plan (Appendix D) designates the Commission as the final arbiter for disputes between local agencies and the petitioner(s).

**8. Kerry McCants, Development Services Manager, County of Fresno, date 11/9/95**

**Comment:** The project is not site specific and land use permits may be required for some work.

**Response:** The Negative Declaration acknowledges that the specific projects which could result from the Commission's action are necessarily speculative, but their descriptions contain enough information for the purposes of the document. In locating its projects, the petitioners will need to cooperate with, and obtain the input of, local authorities regarding land use matters and obtain any ministerial local permits or approvals required for construction and operation of the projects to ensure safety and compliance with local standards. The language of the Mitigation Measures has been revised to clarify this. The fact that petitioners must obtain local ministerial permits does not indicate that the Commission has relinquished its authority. General land use and zoning authority does not permit local agencies to thwart any legitimate construction project necessary to provide utility service. The Mitigation Monitoring Plan (Appendix D) designates the Commission as the final arbiter for disputes between local agencies and the petitioner(s).

**9. Linda B. Guillis, Community and Economic Development Director, City of Moreno Valley, dated 11/13/95**

**Comment:** Mitigation Measures 4, 6 and 9 should be modified by replacing the "should" with the word "shall" to ensure that the petitioners are required to comply with local standards, ordinances and coordination efforts.

**Response:** The Mitigation Measures already contained the word "shall", and have been modified further in response to the comments described earlier. All findings listed in the Negative Declaration have also been modified by replacing the word "should" with "shall".

10. **Richard L. Schneider, Senior Planner, City of Vallejo, date 11/14/95**

**Comment #1:** The analysis in the Negative Declaration is too general and should be revised by identifying each applicant, the local government jurisdiction they will be operating in, whether they will be using facilities-based services or resale services, and a brief description of the anticipated modifications to existing facilities or construction of new facilities.

**Response:** Appendix B, attached to the Initial Study, identifies each applicant. All of the applicants listed on Appendix B are facilities-based carriers (most of them will be resale-based as well). The companies which are strictly resale-based are exempt from CEQA because they have no facilities to construct, and are therefore not addressed in the Negative Declaration. For purposes of clarity, the text in the Project Description of the Negative Declaration has been modified to identify Appendix B more easily.

A brief description of the anticipated modifications to existing facilities and/or the construction of new facilities is provided in both the Project Description sections of the Initial Study and the Negative Declaration.

At this time, the facilities-based carriers are requesting state-wide authority to offer service anywhere within the territories presently served by Pacific Bell and GTE California. Mitigation Measure B has been modified by requiring all petitioners to file quarterly reports with the local agencies. These reports will summarize all anticipated projects for the upcoming quarter. Local governments will know at that time which companies are planning to compete in their particular jurisdiction, and will have the information to begin appropriate coordination.

**Comment #2:** The Mitigation Measures should be modified by replacing the word "should", with the word "shall" so that the petitioners are required to comply with local standards/measures.

**Response:** As noted in earlier comments, the Mitigation Measures have been modified so that it is clear that compliance with local standards/measures are a requirement.

11. **David J. Stagnaro, Environmental Planner, San Joaquin Valley Unified Air Pollution Control District, dated 11/15/95.**

**Comment:** The Negative Declaration is appropriate from an air quality perspective. The air quality impacts that will be associated with the construction phase of the projects will be subject to the District's regulations and air quality standards. Besides regulations for construction, additional rules regarding handling, shipping, paving and storing may also apply. (The District provides the specific regulations.)

**Response:** Finding #5 and Mitigation Measure E addresses air quality and requires the petitioners to implement appropriate dust control measures as recommended by air quality management districts. The Finding and Mitigation Measure have been modified to include compliance with any other air quality standards as established by the affected air quality management districts.

**12. Rita Westfield, Assistant Director Community Development, City of Tustin, dated 11/15/95.**

**Comment:** The Negative Declaration addresses the City's concerns about compliance with local construction standards, permit issuance and traffic control. No other comments offered.

**Response:** Comment noted. The Negative Declaration have been modified in response to other comments about local standards and permits.

**13. Terry L. Farmer, resident, Tehama County, dated 11/16/95**

**Comment:** The address provided in the Public Notice for the Planning Department of the County of Tehama is incorrect. The correct address is provided.

**Response:** The mailing list for the final Negative Declaration will be revised with the correct address for the Tehama County Planning Department.

**14. John Ernest, Senior Planner, City of Irvine, dated, 11/16/95.**

**Comment #1:** There is no limit on the number of petitioners that will be allowed on a particular street to construct facilities. Multiple trenching will shorten street life and impact traffic and circulation as well maintenance of public roads. In fact, some telecommunication companies have already applied for permits to install fiber optic cables in streets.

**Response:** See response to 3. Hoffstadt (Comment #1).

**Comment #2:** Finding #2 of the Negative Declaration indicates that the proposed projects will not have significant effects on public services. The projects will significant effects on the City's ability to provide traffic service, as described in Comment #1.

**Response:** Finding #2 will be modified to exclude the words, "Public Services" since the impacts on the maintenance of public roads may be potentially significant. The Initial Study has also been modified to address impacts on public roads (Question XI d).

Mitigation Measure F has been modified as discussed in the response to 3. Hoffstadt (Comment #2).

**Comment #3:** Finding #3 of the Negative Declaration indicates that the petitioners should comply with all local design, construction and safety standards. The City would like the Negative Declaration to state that the petitioners are required to adhere to all reasonable local policies designed to protect streets and public safety.

**Response:** Finding #3 addresses impacts and mitigation for Geological Resources. Finding #6 and Mitigation Measure F, which address streets and public safety, have been modified to clarify that the petitioners must comply with local design, construction and safety standards. The petitioners are also required to cooperate with local planning agencies to reduce any cumulative impacts to the greatest extent possible. The Commission will be the final arbiter for disputes that cannot be resolved at the local level (see the Mitigation Monitoring Plan for details in Appendix D.)

**Comment #4:** Finding #6 of the Negative Declaration indicates that the petitioners should coordinate their efforts so that the number of encroachments to the utility rights-of-way are minimized. The experience of the City has been that utility companies are unwilling to coordinate or cooperate so that encroachments are minimized. Recommends that the Commission become more involved in the process by enforcing coordination through strict penalties or other means.

**Response:** Coordination among the petitioners and the local agencies will be more specifically addressed in the Mitigation Monitoring Plan (Appendix D). In brief, the Commission believes coordination is best handled at the local level but the Commission will be the final arbiter for all unresolved issues of compliance with the Negative Declaration. The local agencies have the ministerial authority to use reasonable means to organize and coordinate the projects so that public safety and services are protected, but cannot use that authority to prevent or limit utility service.

**Comment #5:** The Negative Declaration's discussion of traffic, rights-of-way and infrastructure should indicate continuance and even strengthening of local authority whenever they are referenced.

**Response:** As discussed in response to other comments, the language in the Mitigation Measures will be modified to clarify the authority of local agencies. However it should also be noted that Commission's intent in clarifying local authority is not meant to relinquish Commission jurisdiction over utility facilities. Moreover, it must also be noted that local agencies cannot use its ministerial permit process to prevent or interfere with a state-wide interest in utility service.

15. Ann Grant-McLaughlin, Associate Planner, City of Buenaventura, dated 11/17/95.

**Comment #1:** The scale of the map provided in the Negative Declaration is too large for a complete evaluation to be done. More locational detail is necessary.

**Response:** In July 1995, the Commission opened the territories presently served by Pacific Bell and GTE California to competition (D.95-07-054). The purpose of the Negative Declaration is to discuss the petitioners' applications for state-wide authorization to compete. Mitigation Measure B has been modified by requiring all petitioners to file quarterly reports with the local agencies. These reports will summarize all anticipated projects for the upcoming quarter. Local governments will know at that time which companies are planning to compete in their particular jurisdiction, and will have the information to begin appropriate coordination.

**Comment #2:** The Negative Declaration states that in the event that more than one petitioner seeks modifications or additions to a particular locality, the petitioners shall coordinate their plans and consult with affected local agencies. Recommends that the petitioners consult with local agencies for all proposed construction activities regardless of the number of petitioners. Construction even in the utility rights-of-way may be subject to local permits and consequent environmental review

**Response:** The reason for the language regarding coordination and consultation with local agencies is to ensure that multiple construction efforts in a single locality are done efficiently and with minimal disturbance to the affected area. However, the language was not meant to excuse a single petitioner from local coordination and consultation. For every construction project, the local ministerial permitting process must be followed by the petitioner regardless of the number of petitioners. Mitigation Measure B has been revised to clarify the points made here.

16. Natalie Meeks, Development Services Manager, City of Anaheim, dated 11/18/95.

**Comment #1:** The mitigation measures should be rewritten to clearly require the petitioners to consult and coordinate to the satisfaction of the local agency. The mitigation measures must be written to ensure that construction activities and facilities are adequately mitigated. Moreover, the local agencies should have opportunity to review the Mitigation Monitoring Plan prior to adoption by the Commission.

**Response:** As discussed in response to other comments, the Mitigation Measures have been modified to clearly require petitioner compliance with local standards through the local ministerial permitting process. The Mitigation Monitoring Plan (Appendix D in the Final Negative Declaration) contains details on how the measures will be implemented and monitored, including suggestions made in comments on the proposed Negative

Declaration.

**Comment #2:** A method should be established by which the local agency reviews and approves the location and number of facilities. For aboveground facilities, traffic, safety, and aesthetic impacts should be mitigated. Collocation, alternate locations and screening should also be considered.

**Response:** Comment #2 requests that the Negative Declaration prescribe a set procedure for the local agencies to follow for review and approval of the location and number of facilities. Each local agency will have the freedom to follow its own method of ministerial review and approval for the facilities. However, as noted in the response to 7. Khatami, the Commission is not relinquishing its jurisdiction to the local agencies, and local agencies may not use land use and zoning authority to prevent utilities from constructing legitimate projects to provide service.

Each jurisdiction will have the authority to enforce its own safety and traffic standards through its ministerial permit process so that any related impacts are mitigated.

**Comment #3:** The Negative Declaration fails to address the important issues such as equipment necessary to operate the facilities, their impact on safety, pavement, and aesthetics.

**Response:** The Project Description of the Negative Declaration contains information regarding the use of switches that are necessary to operate the facilities. Besides the necessary switches, some of the petitioners may need to install small service boxes (not the same as described in 4. Schuller) to effectively distribute service. The Project Description of the Negative Declaration has been modified to discuss the service boxes. Impacts on safety, pavement and aesthetics are discussed in responses below (Comments 4,5 and 7).

**Comment #4:** The Mitigation Measures are not strong enough to prevent repeated excavation in public streets. Local agencies should have authority to limit excavations and regulate facility placement. Moreover the loss of street life as a result of the excavations should be compensated from the petitioners.

**Response:** Mitigation Measure F has been modified to clarify that local ministerial permitting ensures that the installation is done safely and with minimal impact on traffic. Compensation for loss of street life can be effectively implemented through the local permitting process, rather than specifying it in the Negative Declaration. Also, see Response to 3. Hoffstadt (Comments #1 & 2).

**Comment #5:** The Initial Study indicates that there is no hazardous impacts associated with the facilities. However, the proposed operating equipment (same as described in 4. Schuller) may be potentially hazardous to the public. Recommends that Question IX

should be marked as "potentially significant unless mitigation incorporated".

**Response:** See response to 4. Schuller.

**Comment #6:** The location, number, type and design of the proposed facilities are not identified in the Negative Declaration. Excessive installation could leave inadequate space for other public services, and space for telecommunication facilities should be limited by local agencies. Questions XI (d) and (e) should be marked as "potentially significant unless mitigation incorporated" in the Initial Study.

**Response:** See response to 15. Grant-McLaughlin (Comment #1). The amount and size of facility installation will vary from city to city, and from street to street. As stated in the Project Description of the Negative Declaration, it is anticipated that existing utility conduits can accommodate the installation of fiber optic cable. In the event that a petitioner will be forced to go beyond the existing utility right-of-way to install its own facilities, Mitigation Measure A is triggered and a full environmental review of the proposed project would be completed. Question XI (d) of the Initial Study has been modified to indicate the need for mitigation of potential impacts on public road maintenance.

**Comment #7:** The potential aesthetic impacts of the proposed facilities described in Comment #5 above are not mitigated in the Negative Declaration. Encroachments into sidewalks and parkway, diminished aesthetic appeal of surrounding areas, and pedestrian/vehicular conflict are not addressed. Moreover, cost and time for upkeep and maintenance of the facilities are additional concerns. Recommends that the petitioners submit a master plan to local agencies for review and approval so that cumulative effects of these facilities can be mitigated. Finally the City has a number of aesthetic regulations that the petitioners need to comply with.

**Response:** The proposed facilities as described in Comment #5 are part of Pacific Bell's project to upgrade its existing infrastructure and is not related to the proposed projects as discussed in the Negative Declaration (projects to extend facilities to new territories for service). However it is anticipated that some petitioners may require smaller, less obtrusive service cabinets to provide competing service in new territories. The Project Description in the Negative Declaration has been modified to discuss the use of service boxes in greater detail. For these facilities, the petitioners will be required to consult with local agencies regarding aesthetic concerns about their construction. Finding #9 and Mitigation Measure I has been modified to clarify this point. The Negative Declaration will not prescribe a specific method for the petitioners and the local agencies to follow in addressing this issue since each locality has the means to determine the approach most appropriate for it.

17. **Lee Hitchcock**, Building and Safety Manager, City of Buena Park, dated 11/20/95.

**Comment #1:** Pacific Bell has submitted an application requesting a permit to install node cabinets with the City's limits. The node cabinets combine 110 volt primary power, battery backup and low-pressure gas generators for emergency power in an above-grade cabinet. There is insufficient data about vehicle impact and explosion resistance safeguards.

**Response:** See response to 4. Schuller.

**Comment #2:** The size and number of the node cabinets create visual blight and possible visual obstructions in the right-of-way.

**Response:** See response to 16. Meeks (Comment #7).

**Comment #3:** The installation of the service cabinets may necessitate negotiation for private property easements. Predicts that most citizens will object to the installation of the cabinets on their property.

**Response:** As stated in the modified Project Description of the Negative Declaration, the petitioners who need to install the cabinets are committed to building installation or underground vaults. Based on other comments, private property easements are preferable to installation on sidewalks. The petitioners will have to obtain rights to use whatever property is needed, if not already in their possession.

**Comment #4:** Same as 3. Hoffstadt (Comment #2). Recommends common trenching and/or systems to mitigate the problem rather than deterioration fee or limit on the number of competitors.

**Response:** See response to 3. Hoffstadt's (Comment #2).

**Comment #5:** The City could experience liability for the service cabinets located in sidewalks and parkway areas.

**Response:** As noted in responses to earlier comments, the local agencies may enforce its safety standards on the petitioners through ministerial permits. Safety concerns shall be resolved to the satisfaction of the local agencies. Local agencies are liable for those facilities it permits.

18. **Richard Jantz**, Deputy Executive Officer (ERC), Stanislaus County, dated 11/20/95.

No comments on the Negative Declaration

19. **Thomas Berg**, Director, Ventura County, dated 11/21/95.

**Comment #1:** The County's Transportation Department concurs with the Initial Study checklist. Its review of the project is limited to impacts on the County's roadway network and transportation system. The traffic generated by the projects will not significantly impact County roads in unincorporated areas.

**Response:** Comment noted.

**Comment #2:** Construction in the road right-of-way will require an encroachment permit from the County Transportation Department

**Response:** Comment noted. All work in public road ways will require ministerial permits such as encroachment permits from the local agencies, and the Mitigation Measures have been modified to clarify this point.

20. **Daniel J.P. Weaver**, Project Coordinator, San Francisco Beautiful, dated 11/21/95.

**Comment:** The service boxes will encroach into sidewalks and parkways, diminish aesthetic appeal of surrounding areas, and impact pedestrian/vehicular movement along city streets. Moreover, boxes are often the target of graffiti vandalism. Recommends all service cabinets be placed either underground, or on leased private property, fenced and landscaped to avoid visual blight.

**Response:** See response to 16. Meeks (Comment #7).

21. **Donald Stroh**, Dolores Heights Improvement Club and the Coalition of San Francisco Neighborhoods, dated 11/28/95

**Comment:** Opposes the Negative Declaration. The widespread proliferation of utility "street furniture" or service boxes and cabinets results in adverse visually effects and presents hazards for the blind and disabled. Recommends that all utility above-ground boxes be removed from public property and placed in underground vaults or on private property. Also requests public posting by the local public works agency for proposed above-ground boxes, and public hearing procedures, through an independent committee, that are identical to procedures used by the local parking and traffic agency.

**Response:** The construction of all utility facilities will require compliance with all local

ministerial standards and that the petitioners are required to cooperate with local agencies about aesthetic impacts. The Mitigation Measures have been modified to clarify the local agencies' authority. However, the Negative Declaration will not specify standards or procedures for aesthetic or safety concerns. The recommendations made in the comment are directed to the local permitting agencies.

**22. John E. Cribbs, Director of Public Works, City and County of San Francisco, dated 12/6/95.**

**Comment:** The Negative Declaration does not address the projects' impact to the City's street pavement due to the increase in excavations by the petitioners. Enclosed a study done by San Francisco State University which found that the useful life of street pavement declines from multiple utility "cuts" or excavation.

**Response:** See response to 3. Hoffstadt Comment #2.

## **Appendix D**

### **Mitigation Monitoring Plan**

#### **Competitive Local Carriers (CLCs)**

#### **Projects for Local Exchange Telecommunication Service throughout California**

##### **Introduction:**

The purpose of this section is to describe the mitigation monitoring process for the CLCs' proposed projects and to describe the roles and responsibilities of government agencies in implementing and enforcing the selected mitigation measures.

##### **California Public Utilities Commission (Commission):**

The Public Utilities Code confers authority upon the Commission to regulate the terms of service and safety, practices and equipment of utilities subject to its jurisdiction. It is the standard practice of the Commission to require that mitigation measures stipulated as conditions of approval be implemented properly, monitored, and reported on. Section 21081.6 of the Public Utilities Code requires a public agency to adopt a reporting and monitoring program when it approves a project that is subject to the adoption of a mitigated negative declaration.

The purpose of a reporting and monitoring program is to ensure that measures adopted to mitigate or avoid significant environmental impacts are implemented. The Commission views the reporting and monitoring program as a working guide to facilitate not only the implementation of mitigation measures by the project proponents, but also the monitoring, compliance and reporting activities of the Commission and any monitors it may designate.

The Commission will address its responsibility under Public Resources Code Section 21081.6 when it takes action on the CLCs' petitions to provide local exchange telephone service. If the Commission adopts the Negative Declaration and approves the petitions, it will also adopt this Mitigation Monitoring Plan as an attachment to the Negative Declaration.

##### **Project Description:**

The Commission has authorized various companies to provide local exchange telephone service in competition with Pacific Bell and GTE California. 66 petitioners notified the Commission of their intent to compete in the territories presently served by Pacific Bell and GTE California, 40 of which will be facilities-based services meaning that they propose to use their own facilities to provide service.

Since many of the facilities-based petitioners are initially targeting local telephone service for areas where their telecommunications infrastructure is already established, very little construction is envisioned. However, there will be occasion where the petitioners will need to install fiber optic cable within existing utility underground conduits or attach cables to overhead lines. There is the possibility that existing utility conduits or poles will be unable to accommodate all the planned facilities, thereby forcing some petitioners to build or extend additional conduits into other rights-of-way, or into undisturbed areas. For more details on the project description please see Project Description in the Negative Declaration.

#### **Roles and Responsibilities:**

As the lead agency under the California Environmental Quality Act (CEQA), the Commission is required to monitor this project to ensure that the required mitigation measures are implemented. The Commission will be responsible for ensuring full compliance with the provisions of this monitoring program and has primary responsibility for implementation of the monitoring program. The purpose of this monitoring program is to document that the mitigation measures required by the Commission are implemented and that mitigated environmental impacts are reduced to insignificance or avoided outright.

Because of the geographic extent of the proposed projects, the Commission may delegate duties and responsibilities for monitoring to other environmental monitors or consultants as deemed necessary. For specific enforcement responsibilities of each mitigation measure, please refer to the Mitigation Monitoring Table attached to this plan.

The Commission has the ultimate authority to halt any construction, operation, or maintenance activity associated with the CLC's local telephone service projects if the activity is determined to be a deviation from the approved project or adopted mitigation measures. For details refer to the mitigation monitoring plan discussed below.

#### **Mitigation Monitoring Table:**

The table attached to this plan presents a compilation of the Mitigation Measures in the Negative Declaration. The purpose of the table is to provide the monitoring agencies with a single comprehensive list of mitigation measures, effectiveness criteria, the enforcing agencies, and timing.

#### **Dispute Resolution Process:**

The Mitigation Monitoring Plan is expected to reduce or eliminate many potential disputes. However, in the event that a dispute occurs, the following procedure will be observed:

**Step 1: Disputes and complaints (including those of the public) shall be directed first to the Commission's designated Project Manager for resolution. The Project Manager will attempt to resolve the dispute.**

**Step 2: Should this informal process fail, the Commission Project Manager may initiate enforcement or compliance action to address deviation from the proposed project or adopted Mitigation Monitoring Program.**

**Step. 3: If a dispute or complaint regarding the implementation or evaluation of the Mitigation Monitoring Program or the Mitigation Measures cannot be resolved informally or through enforcement or compliance action by the Commission, any affected participant in the dispute or complaint may file a written "notice of dispute" with the Commission's Executive Director. This notice shall be filed in order to resolve the dispute in a timely manner, with copies concurrently served on other affected participants. Within 10 days of receipt, the Executive Director or designee(s) shall meet or confer with the filer and other affected participants for purposes of resolving the dispute. The Executive Director shall issue an Executive Resolution describing his decision, and serve it on the filer and the other participants.**

**Parties may also seek review by the Commission through existing procedures specified in the Commission's Rules of Practice and Procedure, although a good faith effort should first be made to use the foregoing procedure.**

#### **Mitigation Monitoring Program:**

**1. As discussed in Mitigation Measure B, the petitioners shall file a quarterly report which summarizes those projects which they intend to construct for the coming quarter. The report will contain a description of the project and its location, and a summary of the petitioner's compliance with the Mitigation Measures described in the Negative Declaration. The purpose of the report is to inform the local agencies of future projects so that coordination of projects among petitioners in the same locality can be done. The quarterly report shall be filed with the appropriate planning agency of the locality where the project(s) will occur. The report shall also be filed as an informational advice letter with the Telecommunications Branch of the Commission Advisory and Compliance Division (CACD) so that petitioner compliance with the Mitigation Measures are monitored..**

**In order to ensure that the Mitigation Measures are fulfilled, the Commission will make periodic reviews of the projects listed in quarterly reports. The projects will be generally chosen at random, although the Commission will review any project at its discretion. The reviews will follow-up with the local jurisdictions so that all applicable Mitigation Measures are addressed.**

If any project is expected to go beyond the existing utility rights-of-way, that project will require a separate petition to modify the CPCN. The petitioner shall file the petition with the Commission and shall also inform the affected local agencies in writing. The local agencies are also responsible for informing the Commission of any project listed in the quarterly reports which may potentially go out of the existing utility right-of-way. As discussed in Mitigation Measure A, a complete environmental review of the project will be triggered under CEQA, with the Commission as the lead agency.

2. In the event that the petitioner and the local agency do not agree if a project results in work outside of the utility rights-of-way, the Commission will review the project and make the final determination. See **Dispute Resolution Process** discussed above.

3. For projects that are in the utility rights-of-way, the petitioners shall abide by all applicable local standards as discussed in the Mitigation Measures. If a petitioner fails to comply with local regulatory standards by either neglecting to obtain the necessary permits, or by neglecting to follow the conditions of the permits, the local agency shall notify the Commission and **Dispute Resolution Process** begins.

4. The Commission is the final arbiter for all unresolvable disputes between the local agencies and the petitioners. If the Commission finds that the petitioner has not complied with the Mitigation Measures in the Negative Declaration, it may halt and terminate the project.

Mitigation Monitoring Table

Impact	Mitigation Measure	Monitoring Method	Reporting Agency	Responsible Agency	Timing
<b>ALL FACTORS</b> Extension or work beyond or outside of of the existing utility right-of-way into undisturbed areas.	A. Petitioner must file a Petition to modify its CPCN. An appropriate environmental study of the project is done.	Quarterly reports.	Any work outside of existing utility right-of-way is assessed through an environmental study.	CPUC Local agencies.	Before construction
<b>CUMULATIVE EFFECTS</b> Cumulative impacts due to multiple disturbances to a particular area.	B. Coordination efforts among the petitioners and the affected local agencies so that construction projects in the same location can be combined or simultaneous.	Quarterly reports.	The number and duration of disturbances to a particular area are minimized.	CPUC Local agencies.	Before construction
<b>GEOLOGICAL RESOURCES</b> Potential erosion due to excavation, grading and fill.	C. Petitioners shall comply with all local design, construction and safety standards through permit process. Erosion control plans for areas identified as susceptible to erosion.	Quarterly reports.	Erosion at the project area is contained.	CPUC Local agencies.	Before and during construction.
<b>WATER RESOURCES</b> Potential impact on water resources, underground or surface due to excavation or grading work.	D. Petitioners shall consult with all appropriate water resource agencies for projects in close proximity to water resources. Appropriate mitigation plans shall be developed and compliance to all local and state water regulations is required.	Quarterly reports.	Impacts to water quality, drainage, flow, direction and quantity are averted.	CPUC Local agencies. Applicable state water resource agencies.	Before and during construction.

Mitigation Monitoring Table

Impact	Mitigation Measure	Monitoring Frequency	Monitoring Method	Responsible Agency	Timing
<b>AIR QUALITY</b> Excessive dust and other air emissions due to construction.	E. Appropriate dust control measures by petitioner. Compliance with all applicable air quality standards as established by air quality management districts.	Quarterly reports.	Dust and other emissions are contained. Air quality standards for area are met.	CPUC Air quality management districts.	Before and during construction.
<b>TRANSPORTATION &amp; CIRCULATION</b> Traffic congestion, insufficient parking, and hazards for pedestrians.	F. Coordination by petitioners through local agencies to minimize right-of-way encroachments. All local safety and construction standards shall be met through the local permit process. Advance notice to surrounding area of construction date and time.	Quarterly reports.	Traffic congestion is minimized.	CPUC Local agencies. Caltrans	Before and during construction.
<b>HAZARDS</b> Construction in right-of-way may interfere with emergency or evacuation plans.	G. Measure F above shall be augmented by informing and consulting with emergency and evacuation agencies if the proposed project impacts a route used for emergencies or evacuations.	Quarterly reports.	Construction projects do not interfere with emergency or evacuation routes.	CPUC Local agencies.	Before and during construction.
Potential increase in overhead poles and communication lines.	G. Petitioner shall obtain all necessary building permits for the poles. CPUC's Safety & Enforcement Division will inspect the overhead lines.	Quarterly reports.	Poles are built in compliance with local safety standards. Lines are inspected and maintained as safe.	CPUC Local agencies.	Before and during construction.

Mitigation Monitoring Table

<b>NOISE</b> Noise standards for the area are exceeded due to construction.	H. All applicable noise standards shall be complied with by the petitioners. Petitioners shall notice the surrounding area of construction dates and times.	Quarterly reports.	Noise from construction is kept to levels that do not exceed local standards.	CPUC Local agencies.	Before and during construction.
<b>AESTHETICS</b> Service boxes or cabinets may be a visual blight.	I. All applicable aesthetic standards will be met by petitioners for above-ground facilities, especially service cabinets.	Quarterly reports.	Cabinets are placed within existing buildings, underground, or in areas that are landscaped so that aesthetic impacts are minimized.	CPUC Local agencies.	Before and during construction.
<b>CULTURAL RESOURCES</b> Cultural resources are encountered during construction; resources are damaged or moved.	J. All earthmoving that would impact the resources shall cease or be altered until the petitioner retains the service of an archaeologist who will propose mitigation.	Quarterly reports.	Cultural resources that are encountered are not destroyed or adversely impacted.	CPUC Local, state and/or federal agencies.	During construction.

